

ADVISORY OPINION 91-9 [1991-1]

Thank you for your memorandum of January 4, 1991 concerning the application of the Ethics Law with regard to the award of Contract #15473. This contract is for the removal of dead trees from public rights-of-way in the Suburban Taxing District.

According to the information you have provided, the lowest bidder on this contract is the (name of company). This company is owned and operated by (person's name), a former employee of the Montgomery County Department of Transportation, Division of Urban Maintenance. You have also indicated that, as a county employee, (person's name) never held a management or decision-making position. He left County employ in 1984 to start his own tree removal business.

Your concern about the award of this contract to (person's name) is that he may have had an unfair advantage over other bidders because he is knowledgeable of county practices as well as the fact that, if requested, PEPCO will remove portions of trees which are above power lines, thereby reducing a contractor's costs.

Your memorandum also states, however, that all bidders were invited to a "voluntary" pre-bid meeting, and that those who attended "were made aware of items of this nature".

Based on all the foregoing, the Ethics Commission does not find any violation of 19A-13 (relating to former employment) or 19A-15 (relating to the use of confidential information), and knows of no reason why you would be prohibited from recommending award of IFB #15473 to the (company name).

Thank you for bringing this matter to the Commission's attention. If you have any further questions, please contact our office.

Date of Issue: January 28, 1991